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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,314	11/20/2000	Mark Saliterman	13432.1US01	8681
22865	7590	06/30/2005	EXAMINER	
ALTERA LAW GROUP, LLC 6500 CITY WEST PARKWAY SUITE 100 MINNEAPOLIS, MN 55344-7704			GRIER, LAURA A	
			ART UNIT	PAPER NUMBER
			2644	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/716,314

Applicant(s)

SALITERMAN, MARK

Examiner

Laura A. Grier

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 17 is objected to because of the following informalities: the ending of lines 16 comprises improper punctuation. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 15, 17 and 19-20** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding **claim 15**, lines 6-7 recites, “an earpiece worn by at least one of said plurality of individuals...”. It is unclear to the examiner as to whether or not one or two earpieces are claimed. Thus, the claim language of the claim is indefinite and unclear.

Regarding **claim 17**, line 5 recites, “an earpiece worn by at least one of said plurality of individuals...”. It is unclear to the examiner as to whether or not one or two earpieces are claimed. Thus, the claim language of the claim is indefinite and unclear.

Dependent **claims 19-20** are dependent upon claim 17.

For examination purpose, the claims render an indefinite interpretation.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 11-13** are rejected under 35 U.S.C. 102(e) as being anticipated by Scrivens et al., U. S. Patent No. 6728518.

Regarding **claim 11**, Scrivens et al. (herein, Scrivens) discloses event communication system (figure 1). Scrivens disclosure comprises a fixed frequency receiver (12) and a transmitter (30) for receiving and transmitting audio of various events within a particular fixed space, in which a code mechanism is used to prevent unauthorized receipt of the broadcast signal, the receiver comprises a speaker/earpiece (16), which the receiver may be used by a multiple of persons (abstract, col. 3, lines 27-46), which reads on assigning a transmission protocol via an earpiece worn by a spectator, and collecting an audio signal, therein as claimed; Scrivens inherently discloses the transmission protocol not for use in subsequent events occurring within the fixed space as evident by the fact that transmitter provides a radio signal related to the specific event, and particularly designed for the venue occupied by the event.

Regarding **claim 12**, Scrivens disclose everything claimed as applied above (see claim 11). Scrivens discloses a fixed frequency receiver (12), which, reads on the transmission protocol comprising a transmission frequency.

Regarding **claim 13**, Scrivens disclose everything claimed as applied above (see claim 11). Scrivens discloses a fixed frequency receiver (12) receiving a transmitted signal comprising a code mechanism that prevents unauthorized receipt of the broadcasting signal, which indicates that the transmission protocol comprising a spreading code.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claim 14** is rejected under 35 U.S.C. 103(a) as being unpatentable over Scrivens.

Regarding **claim 14**, Scrivens discloses everything claimed as applied above (see claim 11). Scrivens discloses a code mechanism and other means for preventing interception of the broadcast signal, However, Scrivens fails to disclose an encryption procedure as a transmission protocol. The use of encryption is commonly used technique in transmitting data/information. Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Scrivens by implementing an encryption procedure as one of the means for preventing interception of the broadcast signal for the purpose of enabling personal and individual use with interference of the event communication system.

8. **Claims 16, 18 and 21-26 are rejected under 35 U.S.C. 1103(a)** as being unpatentable over Scrivens in view of Ogden.

Regarding **claims 16 and 18**, Scrivens et al. (herein, Scrivens) discloses event communication system (figure 1). Scrivens disclosure comprises a fixed frequency receiver (12) and a transmitter (30) for receiving and transmitting audio of various events with in a particular fixed space, in which a code mechanism is used to prevent unauthorized receipt of the broadcast signal, the receiver comprises a speaker/earpiece (16), which the receiver may be used by a multiple of persons (abstract, col. 3, lines 27-46), which reads on assigning a transmission protocol via an earpiece worn by a spectator, and collecting an audio signal, therein as claimed; and Scrivens inherently discloses the transmission protocol not for use in subsequent events occurring within the fixed space as evident by the fact that transmitter provides a radio signal related to the specific event, and particularly designed for the venue occupied by the event. However, Scrivens fails to disclose charging a fee in exchange or deriving revenue for the earpiece.

Regarding charging a fee in exchange or deriving revenue for the earpiece, in a similar field of endeavor, Ogden discloses transmission and reception system comprising a transmitter and a headset (earpiece) (figure 3 and 4), wherein the system may be sold to the public (col. 2, lines 58-65).

Thus it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Scrivens by implementing a fee/revenue to spectators in exchange for an earpiece for the purpose of acquiring financial gain.

Regarding **claims 21-26**, Scrivens discloses event communication system (figure 1). Scrivens disclosure comprises a fixed frequency receiver (12) and a transmitter (30) for receiving and transmitting audio of various events with in a particular fixed space, in which a code mechanism is used to prevent unauthorized receipt of the broadcast signal, the receiver comprises a speaker/earpiece (16) - (abstract, col. 3, lines 27-46), which reads on one or more signal conditioning units, and one or more transmitters, therein as claimed; and Scrivens inherently discloses the transmission protocol not for use in subsequent events occurring within the fixed space as evident by the fact that transmitter provides a radio signal related to the specific event, and particularly designed for the venue occupied by the event. However, Scrivens fails to disclose one or more audio collection units.

Regarding the audio collection units, in a similar field of endeavor, Ogden discloses a parabolic dish for receiving audio signals generated from verbal interaction during a sporting event within an arena, stadium, etc., which constitutes collecting an acoustic audio signal; and as well mixing console, which reads on a conditioning means (col. 3, lines 66-67 and col. 4, lines 1-26).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Scrivens by implementing a parabolic dish for the purpose of receiving audio signals from verbal interaction during a sporting event as taught by Ogden.

Regarding **claims 22-23**, Scrivens and Ogden discloses everything claimed as applied above (see claim 21). Ogden of Scrivens and Ogden, discloses the audio collection units comprising one or more parabolic microphones (col. 4, lines 53-65 and figure 5).

It would have been obvious to one of the ordinary skill at the time the invention was made to modify the invention of Scrivens and Ogden by providing parabolic microphones for the purpose of providing a microphone having optimal directivity, which is a primary characteristic of parabolic microphones and providing new and enhanced audio wireless transmission and reception.

Regarding **claims 24 and 26**, Scrivens and Ogden disclose everything claimed as applied above (see claim 21). Scrivens discloses a fixed frequency receiver (12) receiving a transmitted signal comprising a code mechanism that prevents unauthorized receipt of the broadcasting signal, which indicates that the transmission protocol comprising a spreading code.

Regarding **claim 25**, Scrivens and Ogden discloses everything claimed as applied above (see claim 21). Scrivens discloses a code mechanism and other means for preventing interception of the broadcast signal, However, Scrivens and Ogden fails to disclose an encryption procedure as a transmission protocol. The use of encryption is commonly used technique in transmitting data/information. Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Scrivens and Ogden by implementing an encryption procedure as one of the means for preventing interception of the broadcast signal for the purpose of enabling personal and individual use with interference of the event communication system.

Response to Arguments

9. Applicant's arguments with respect to claims 11-26 have been considered but are moot in view of the new ground(s) of rejection.

The applicant essentially makes remarks about the amended limitation as being allowable in respect amending dependent claim 15 and 17, respectively as independent claims. Claims 15 and 17 as indicated in the previous Office Action and this current Office Action only if the 112 rejection matters are corrected in claims 15 and 17. The 112 rejections have not been addressed or corrected by the applicant. The art rejection and 112 2nd paragraph rejection is maintained.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Grier whose telephone number is (571) 272-7518. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh N. Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Laura A. Grier
June 27, 2005